

City Council of the Mayor and Council of New Castle
Regular Council Meeting at Town Hall – 201 Delaware Street – New Castle
Tuesday – March 8, 2011 – 7 p.m.

Present:

Council President William Barthel
Councilperson John Cochran
Councilperson John Gaworski
Councilperson Ted Megginson
Councilperson Teel Petty

Also present: City Administrator Cathryn Thomas, City Treasurer Janet Carlin, City Planner Marian Hull, City Solicitor Dan Losco, Police Chief Kevin McDerby, Building Official Jeff Bergstrom

Approval of Minutes by Date

A motion was made by Councilperson Megginson to approve the minutes of the February 3 and February 8, 2011 meeting as presented. The motion was seconded by Councilperson Petty. The motion was approved unanimously.

Approval of Treasurer's Report

Treasurer Carlin reported that as of February 28, 2011, total petty cash on hand was \$400; total monthly deposit \$152,172.04; total cash in accounts is \$361,620.12; total certificates of deposit and Delaware Government Investment Pool \$2,064,976.75; total cash on hand \$2,426,596.87.

Councilperson Gaworski made a motion to accept the Treasurer's Report. Councilperson Megginson seconded the motion. The motion was approved by unanimous vote.

Report from the City Administrator

Administrator Thomas reviewed grant activity. The City is still waiting to hear from WILMAPCO on a \$27,000 grant. The City did request a grant through the Delaware Preservation Fund to do more professional detail and pricing on the Bank Building. It was learned late today that the City will be awarded a \$1,000 grant. The City still has free yard waste carts provided by the DWSA. There are about 40 carts remaining from the initial 200 provided by the DWSA. Once they are gone there will not be any more.

Councilperson Petty asked if the \$500 presented from the Jaycees at a recent meeting had been earmarked. Administrator Thomas said that Council had not yet discussed how to use that money.

Approval of Staff Reports

Council President Barthel said the report would be accepted as presented.

Councilperson Megginson informed that Public Works should be receiving the new trash truck in the next ten days. He added that fuel bills are running high at this time. Administrator Thomas commented that it is likely we will run over budget this year on fuel because of prices. Transfers may be necessary later in the budget year.

Grant Review

Councilperson Cochran reported grant income we have in is a running grant for \$274.99, the refund on the treadmill, and there was an EID for the City of New Castle for \$213.02.

Communications

Councilperson Petty reported that some areas of Buttonwood are experiencing drinking water problems. There is a high concentration of iron in the water that is not harmful but is inconvenient when washing clothes or bathing. A meeting with MSC has taken place to address the issue. Some engineers are supposed to be looking at it. Administrator Thomas is aware of the meeting that took place and they will be looking at the main water line supplying that area.

Council President Barthel reported that the Trustees have granted Council's budget request for the next fiscal year. It will be beneficial for the City and next year's fiscal budget. A letter will be sent to the Trustees to thank them. He noted this is a good example of two entities working together to benefit everyone.

Council President Barthel announced the City is a recipient of the National Environmental Hall of Fame Award. A representative from the National Environmental Hall of Fame was unable to be present to formally present the award, so Administrator Thomas presented the award to Council President Barthel on their behalf. Administrator Thomas was invited to submit an application for this award. She cited many environmentally-friendly projects the City is engaged in that she used on the application. The award honors people and communities that do things that are environmentally beneficial.

Mr. Ryne Daniels presented a proposal to operate a Pedicab service within the City limits of New Castle. It is designed to be a small-scale means of transport within a local area. It is environmentally friendly, no emissions, and can be used to shuttle people around the City. He would like to make the service available during special events. The Pedicabs are equipped with seat belts, tail lights, turn signals, head light, sunshade/canopy, and an enclosure for inclement weather. Solicitor Losco advised that Council should consider an ordinance or adopt a licensing procedure to monitor qualifications, proper insurance, following the rules of the road and put a licensing ordinance in place. Police Chief McDerby noted the vehicle must comply with Title 21 and adhere to Delaware motor vehicle laws that are adopted by the City of New Castle.

Mr. Daniels is in favor of good, sound regulation and wants this operation to be as safe as possible. He would like this matter to be addressed at the next City Council meeting to allow him enough time (4-5 weeks) to prepare his operation. Mr. Daniels would like to be in operation in time for premier events in the City. The operation would run until 9 p.m. on weekdays and on weekends he would like to run until 10 p.m. Times of operation will depend on the time of year. Council members were receptive to the proposal.

Administrator Thomas said that Solicitor Losco will draft an ordinance that will ultimately become part of the Code that will require the City to conduct three (3) readings and a public hearing. The draft ordinance could be distributed to Council members in advance of Council's next meeting. She suggested having a hearing before the next meeting. Councilperson Petty questioned whether this operation would interfere with vendors who operate at special events (i.e., Separation Day). Administrator Thomas said this needs to be addressed in the new ordinance. On vendor permits the City excludes vendors from being able to vend on special event dates.

Unfinished Business

1. First and Second Reading of Ordinance No. 480, amending the City of New Castle Zoning Code, modifying the language specifying the Zoning Amendment Procedure.

The First and Second Readings of Ordinance No. 480 were completed, amending the City of New Castle Zoning Code, modifying the language specifying the Zoning Amendment Procedure.

New Business

1. Discussion and Decision relative to a recent communication from the office of the Delaware Attorney General concerning the Mayor's attendance at executive sessions of the City Council.

Council President Barthel said City Council did not ask the Attorney General for an opinion or ask for this to be brought to Council. The response was made directly to the Mayor as a result of his FOIA complaint. *(He then read the portion of the Attorney General's letter to the Mayor that Council was provided.)* The Attorney General's Office has determined "the Mayor is the executive officer of the City, not a member of Council, as is the case in some towns. By admitting the Mayor to executive sessions for collegial reasons, the Council might be transforming the so-called executive session into a meeting that must be open to all of the public." President Barthel believes, based on the information provided, that Council needs to exclude the Mayor from executive sessions. Councilperson Megginson does not want to violate the FOIA. He admitted to unknowingly violating FOIA and now that Council has a decision from the Attorney General it should be followed. We should not permit the Mayor to attend executive sessions unless there is business that concerns him. Councilperson Cochran agrees that Council should follow the Attorney General's recommendation. Councilperson Petty said the Attorney General's recommendation is clear and we should follow it. Councilperson Gaworski agrees that Council should follow the Attorney General's recommendation.

Solicitor Losco said there are nine reasons for holding an executive session (litigation issues, personnel issues, collective bargaining, etc.). There may be times when the Mayor's input is necessary at some executive sessions, but it should be handled on a case-by-case basis.

For the record, Council agrees unanimously to exclude the Mayor from executive sessions when appropriate and when situations arise that require the Mayor's attendance, then Council would decide his attendance.

2. Request by Toby Hagerott of Bayberry Farm to vend produce in the City of New Castle. Mr. Hagerott's goal is to provide natural and local produce. A City Vendor's Permit and Certificate of Insurance were provided. He would like to vend near the old water fountain. He would like to sell his produce on the weekend, either Saturday or Sunday. Discussion about location to sell his produce followed. There were several concerns about his vending near the water fountain. He would like to stay around the court house to remain centrally located. The cobblestone street was suggested as a better location. The consensus of Council was to approve the request.
3. Motion, Discussion and Vote on a Bank Resolution for the purchase of a Chevy Tahoe by the New Castle Police Department.

Councilperson Petty made a motion to approve the bank resolution in the amount of \$26,659.00 to purchase a Chevy Tahoe. Mr. Megginson seconded the motion. The motion was approved unanimously.

4. Resolution approving the Appointment of Mr. Daniel Know to the Municipal Services Commission, as the City Council representative, for the term April 1, 2011 through March 31, 2014.

A motion was made by Councilperson Megginson to appoint Mr. Daniel Knox to the Municipal Services Commission. Mr. Cochran seconded the motion. The motion was approved unanimously.

Mr. Knox assured Councilperson Petty that the water problems at Buttonwood are a high priority. MSC is doing their best to keep the rates low; the City has the second lowest rates in the State. They are doing their best to manage capital improvements also.

Council President Barthel said Council is appreciative of the dialogue between MSC and Council. Councilperson Cochran added that the members of MSC are very knowledgeable and do a great job.

5. Motion, Discussion and Vote to select a vendor from those who provided proposals to replace the HVAC system in the City Administration office building, installing an energy-efficient system utilizing Federal stimulus funds of \$50,000 through the Energy Efficiency Community Development Block Grant (EECBG) program.

Councilperson Petty said the resolution is clear.
Resolution 2011-6 was passed by unanimous vote.

6. Motion, Discussion and Vote on a Resolution to approve budgetary transfers, as a result of the mid-year budget review. (Removed from agenda.)
7. Discussion of establishment of a Capital Reserve Fund.

Councilperson Cochran believes this fund will give the City the opportunity to set aside monies for capital improvement programs. The dike repair program was cited. Administrator Thomas said these monies are available for any use but some funds can be earmarked for capital expenditures. It is good planning and would be a wise move. Monies can be set up in a reserve fund and can only be expended for the purpose for which it was established. It can be as general or restrictive as we want. Council President Barthel is concerned about accessibility of funds in the event of an emergency.

A resolution will be required to establish the fund. At that time we look at our whole financial picture and decide the amount to start the fund with and how restrictive it should be.

8. Motion, Discussion and Vote approving investment of \$250,000 of City savings in an interest-bearing account to yield higher interest earnings than are currently being realized through the DelGIP investment program.

Councilperson Petty made a motion to approve Resolution No. 2011-08. Councilperson Megginson seconded the motion. The motion passed by unanimous vote.

9. Motion, Discussion and Vote on a Resolution to approve vacation, sick and personal pro-rated entitlements for part-time Human Resources Coordinator position as permitted for other AFSCME part-time employees.

A motion to approve Resolution No. 2011-09 was made by Councilperson Gaworski. Councilperson Megginson seconded the motion. The motion was approved unanimously.

10. Comments from the floor.

Dr. Soma Padmalingam, of Chestnut Street, congratulated the outgoing Council on the excellent job they have done the last two years. He also congratulated Council President Barthel as President of the incoming Council.

Council President Barthel gave candidates for City office the opportunity to introduce themselves.

A motion was made by Councilperson Megginson to adjourn the meeting. Councilperson Cochran seconded the motion. The motion passed unanimously.

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Debbie Turner

Debbie Turner
Evening Stenographer